

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

JAVIER TAMES, Individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

DESARROLLADORA HOMEX, S.A.B.  
DE C.V. a/k/a HOMEX DEVELOPMENT  
CORP., GERARDO DE NICOLÁS  
GUTIÉRREZ, and CARLOS  
MOCTEZUMA VELASCO,

Defendant.

Case No.: 2:17-cv-01416-JMA-ARL

Hon. Judge Joan M. Azrack

Hon. Magistrate Judge Arlene R. Lindsay

**LEAD PLAINTIFF'S NOTICE OF MOTION  
AND MOTION FOR AN AWARD OF  
ATTORNEYS' FEES AND REIMBURSEMENT  
OF LITIGATION EXPENSES**

**TO THE CLERK OF THE COURT AND ALL PARTIES AND THEIR COUNSEL  
OF RECORD:**

**PLEASE TAKE NOTICE** that, pursuant to the Court's Order Granting Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice, Setting Date for Hearing on Final Approval of Settlement (Dkt. No. 25) (the "Preliminary Approval Order"), on September 16, 2020, at 9:00 a.m. in Courtroom 920 at the United States District Court for the Eastern District of New York, 100 Federal Plaza, Central Islip, New York 11722-4451, the Honorable Joan M. Azrack, presiding, Lead Plaintiff Jose Acosta ("Lead Plaintiff"), by and through his counsel, Levi & Korsinsky, LLP, will and hereby do move for: (i) an award of attorneys' fees and reimbursement of litigation expenses.

This motion is based upon the Lead Plaintiff's Memorandum of Law in Support of Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses; the declarations of Adam M. Apton, Steven R. Platt, and Lead Plaintiff Jose Acosta; the record and proceedings in this Action; and such matters as the Court may consider at the time of the hearing.

Lead Plaintiff Jose Acosta hereby submits a proposed order in connection with this motion.

### YOUR HONOR'S INDIVIDUAL RULES

This motion is filed in accordance with the schedule set by the Preliminary Approval Order entered on May 22, 2020 by the Honorable Arthur D. Spatt. Paragraph 21 of the Preliminary Approval Order provided that “[a]ll papers in support of the Settlement, Plan of Allocation, and Lead Counsel’s request for an award of attorneys’ fees and expenses shall be filed with the Court and served on or before thirty-five (35) calendar days prior to the date set herein for the Settlement Hearing.” The Stipulation provides that Defendant Homex<sup>1</sup> will take no position on the Fee and Expense Application. *See* Stipulation ¶14. Accordingly, Lead Counsel does not anticipate any response from Defendant Homex to this motion. For the foregoing reasons, Lead Plaintiff and Lead Counsel respectfully request that Rule IV.B and Rule IV.F. 1 and 2 of your Honor’s Individual Rules be waived for this motion.

DATED: August 12, 2020

Respectfully submitted,

/s/ Adam M. Apton

Nicholas I. Porritt

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*Attorneys for Lead Plaintiff Jose Acosta and Lead  
Counsel for the Proposed Class*

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<sup>1</sup> Unless otherwise noted, capitalized terms have the meanings set forth in the Stipulation of Settlement dated May 5, 2020 (ECF No. 23, the “Stipulation”).